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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/710,917

08/12/2004

Michael J. Hummel

13234-00013

4916

27144

7590

10/31/2006

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EXAMINER

WILKENS, JANET MARIE

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/710,917

Applicant(s)

HUMMEL ET AL.

Examiner

Janet M. Wilkens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-8, 10 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 10 and 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Attachment A.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how stacked pallets of the disclosed invention would be the same thickness as one single pallet, since the top edging of the upper pallet would inherently extend above the feet of the lower nested pallet increasing the thickness of the unit. (See Attachment A). It is unclear how this arrangement would even be possible with the pallets disclosed.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4, 6-8, 10 and 12-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 1, it is unclear how the channels can be part of themselves ("channels of a first one of said channels"). Also, it is unclear how plural channels can be aligned with a single opposing channel. Furthermore, it is unclear whether or not the "a channel" in line 9 (both occurrences) is one of the channels claimed previously and "said first section" lacks antecedent basis.

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For claim 7, it is unclear whether or not the "a channel" in line 7 (both occurrences) is one of the channels claimed previously. For claim 13, it is unclear whether or not the "a channel" in line 14 (both occurrences) is one of the channels claimed previously. For claim 17, it is unclear whether or not the "an opening" in line 9 is one of the openings claimed previously. For claim 18, it is unclear whether or not the "a connector" in line 3 is one of the connectors claimed previously and it is unclear which channel is being referred to in line 3 since plural channels have been claimed previously. For claim 19, it is unclear whether or not the "a channel" in line 2 is one of the channels claimed previously.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-8, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fengels (4,095,769) in view of Haenszel (6,123,208). Fengels teaches a pallet (Fig. 1) comprising: a plurality of sections (1,1') having upper, lower and side surfaces; rectangular channels (5) formed through one of the side surfaces of each section and into the section; and a plurality of rectangular elongated connectors (7) dimensioned to fit closely in (and secured to via screw fasteners (8)) the channels of mating sections. For claims 1 and 7, Fengels fails to teach plural apertures in the

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channels to be selectively aligned with plural apertures on the connectors. Haenszel teaches plural apertures (A', B') in channels (25) to be selectively aligned with plural apertures (A-D) on connectors (50). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the channels of Fengels by adding more apertures in the channels and connectors, such as is taught by Haenszel, to allow the sections to be more adjustable relative to each other. As for method claims 7, 8, 10 and 12, since Fengels in view of Haenszel teaches the structural limitations of the claims, the method steps would inherently be met.

Allowable Subject Matter

Claim 13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. (The prior art fails to teach a pallet comprising: a plurality of single molded polymeric sections having upper, lower and side surfaces, channels formed through at least one of the side surfaces of each section and extending into the section; a plurality of integral supporting legs extending from the lower surfaces; the upper surfaces being formed by lattice-like structure of integrally molded intersecting members having an inverted U-shaped cross-section, the channels being formed in the intersection members; and a plurality of elongated connectors dimensioned to fit in the channels, each of the connectors extending between a channel of a first section and a channel of a second section.)

Claims 14-16, 18 and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed August 11, 2006 have been fully considered but they are not persuasive.

Regarding the arguments concerning the 112 first rejection: the examiner still contends that the upper portion of the sidewall 16, of the upper pallet of the stacked pallets, would increase the thickness of the arrangement. See Attachment A.

Regarding the new art rejection using Fengels in view of Haenszel: upon discovering the reference of Haenszel, it was determined that the adjustable rectangular connectors in channels taught therein would be obvious to employ in the pallet of Fengels, i.e. adding additional openings in the connectors/channels of Fengels would have been an obvious consideration to increase adjustability thereof. A delay in the making of this rejection is regretted.

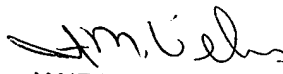
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wilkins
October 27, 2006


JANET M. WILKENS
PRIMARY EXAMINER
Art 3637

